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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 13, 2001

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC010186

Ex Parte: In the matter of
revising rules governing
payphone service and instruments

ORDER ADOPTING RULES

By Order dated November 24, 1993, the State Corporation Commission ("Commission") adopted Regulations for Payphone Service and Instruments (20 VAC 5-400-90). On October 17, 2001, the Commission entered an Order inviting comments and requests for hearing on the Staff's new proposed rules governing payphone service and instruments ("Proposed Rules"). As stated in that Order, the Proposed Rules were designed to update and modernize the current rules adopted in 1993.

In the October 17, 2001, Order, the Commission also recognized the fact that payphone service remains essential to many Virginians and the traveling public who depend upon payphones to satisfy their communications needs and who rely on operator assistance to complete their calls and provide emergency assistance.

By November 14, 2001, the Commission had received comments on the Proposed Rules from WorldCom, Inc. ("WorldCom"), Cox

Virginia Telcom, Inc. ("Cox"), the Division of Consumer Counsel, Office of the Attorney General, Verizon Virginia Inc. and Verizon South Inc. ("Verizon"), the Atlantic Payphone Association ("APA"), USLD Communications, Inc., Sprint, and one private citizen.

NOW THE COMMISSION, having considered the Proposed Rules and the comments thereto, finds that we should adopt the rules appended to this Order as Attachment A, effective December 14, 2001.

The rules we adopt herein contain several modifications and clarifications to those originally proposed by the Staff and published in the Virginia Register of Regulations on November 5, 2001. These modifications were made after our consideration of the changes proposed by the various interested parties in this proceeding and our analysis of how best to balance the interests of payphone users, payphone service providers, serving local exchange carriers, and operator service providers. We will not review each rule in detail but will comment briefly on several of them.

First, however, we will address issues raised by WorldCom and Cox in their comments. In its comments, WorldCom states that the Proposed Rules are inconsistent with the Commission's determinations in Case No. PUC990157, Robert E. Lee Jones, Jr.

v. MCI WorldCom Network Services of Virginia, Inc. et al.¹

because they specifically exempt from regulation "[p]ayphone instruments located in confinement facilities. . . ." Cox simply requests that the Commission establish rules governing service from payphone instruments in confinement facilities, either in this proceeding or in a future rulemaking proceeding, that are generally applicable to all companies providing or interested in providing payphone instruments and/or service in confinement facilities.

WorldCom mischaracterizes Proposed Rule 20 VAC 5-407-10 B. This Proposed Rule exempts payphone instruments located in confinement facilities from the provisions of proposed Chapter 407. The Staff's Proposed Rules govern distinct aspects of payphone service and instruments, including registration, renewal, and cancellation procedures, service requirements, and housing card requirements for payphone service providers ("PSPs"), operator service providers ("OSPs"), and serving local exchange carriers ("serving LECs"). The Proposed Rules are deliberately narrow in application and do not preclude the Commission from exercising regulatory authority in appropriate

¹ Commonwealth of Virginia, ex rel. Robert E. Lee Jones, Jr. v. MCI WorldCom Network Services of Virginia, Inc., and MCI WorldCom Communications of Virginia, Inc., Case No. PUC990157, Doc. Cont. Ctr. No. 010840017 (August 22, 2001 Final Order), *reconsideration granted*, Doc. Cont. Ctr. No. 010920111 (*Order Granting Petition for Reconsideration and Motion to Suspend Final Order*, September 11, 2001).

circumstances in the future. In fact, Cox urges the Commission to establish a generic rulemaking proceeding to consider regulation of payphone instruments in confinement facilities. While we have no immediate intention to establish such a proceeding, we believe this is a reasonable request and will consider it.

Next, the APA recommended a revision to Rule 20 VAC 5-407-50 B to permit more than one payphone instrument to be attached to one access line in certain circumstances. The APA stated that there are circumstances where the monthly recurring access line fees are too great to allow each instrument its own access line, i.e., truck-stop restaurants. We agree with the APA that where multiple coinless phones are installed in the same physical area, one access line is sufficient to connect up to three coinless phones. Thus, Rule 20 VAC 5-407-50 B has been revised to incorporate the APA's comments.

In addition, based on the APA's comments, we have revised Rule 20 VAC 5-407-50 J to permit PSPs sufficient time to implement changes to central office codes and local and extended calling areas rather than requiring that the changes be implemented by the effective date of the change.

With regard to Rule 20 VAC 5-407-50 K, we considered the comments of both the APA and Verizon and have revised the rule accordingly. This Rule now contains an exception to restoral

standards for out-of-service payphones where site construction has interrupted service and requires serving LECs to restore 80% of all out-of-service conditions within 24 hours and 100% of all such conditions within 48 hours from receipt of the trouble report. We believe this rule now contains reasonable standards for both PSPs and serving LECs.

Further, we revised Proposed Rule 20 VAC 5-407-50 N, which mandated that PSPs could not charge fees for incoming calls, and, instead, we will permit such fees for calls in excess of one minute. This should be posted on the housing card in accordance with Rule 20 VAC 5-407-60 A 12.

Finally, we revised Rule 20 VAC 5-407-50 O (now 20 VAC 5-407-50 O and P) to ensure consistency with the Commission's Order in Case No. PUC970029, Petition of PayTel Communications, Inc., et al., For rejection of and investigation of tariffs filed by Virginia local exchange carriers pursuant to § 276 of the Telecommunications Act of 1996. In the May 11, 2001, Final Order in that case, we stated that the Federal Communications Commission's ("FCC") regulations implementing § 276 of the Telecommunications Act of 1996 ("the Act") attempt to impose upon the Commonwealth, in its sovereign capacity, a role pursuant to § 276 of the Act that is in violation of the Tenth Amendment. We, therefore, found that the Commission does not have the authority independent of the Constitution of Virginia

and state statutes to strictly assist the FCC in fulfilling the FCC's statutory and regulatory duties. To assure consistency with that finding, we revised Rule 20 VAC 5-407-50 0 to remove the reference to FCC tariffs and, instead, included an additional rule clarifying the compliance requirements as they may relate to the FCC.

Accordingly, IT IS ORDERED THAT:

(1) We hereby repeal the Regulations for Payphone Service and Instruments, 20 VAC 5-400-90 et seq., and adopt the Rules For Payphone Service and Instruments, 20 VAC 5-407-10 et seq., appended hereto as Attachment A.

(2) Because these rules may require changes to effective or proposed tariffs currently on file at the Commission, operator service providers and serving local exchange carriers are directed to file revised tariffs, if necessary, on or before January 18, 2002, incorporating changes required by these rules.

(3) A copy of this Order and the rules adopted herein shall be forwarded promptly for publication in the Virginia Register of Regulations.

(4) This case is dismissed and the papers filed herein shall be placed in the file for ended causes.

Chapter 407.

RULES FOR PAYPHONE SERVICE AND INSTRUMENTS.

20 VAC 5-407-10. Applicability; definitions.

- A. This chapter is promulgated pursuant to the provisions of the Pay Telephone Registration Act (§ 56-508.16 of the Code of Virginia).
- B. The provisions in this chapter apply to all payphone service providers (PSPs) and, where applicable, operator service providers (OSPs), and serving local exchange carriers (serving LECs). Payphone instruments located in confinement facilities are excluded from the provisions of this chapter.
- C. The following terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:
- "Commission" means the State Corporation Commission.
- "Interexchange carrier" or "IXC" means a carrier that provides intrastate interexchange long-distance telephone service.
- "Operator service provider" or "OSP" means a company that provides or contracts for call completion by either live or automated services.
- "Payphone instrument" means a telecommunications device, either coin or coinless, that imposes a charge on a per call or use basis.
- "Payphone service" means the provision of coin or coinless telephone service to the public utilizing a payphone service provider's instrument.

"Payphone service provider" or "PSP" means a company or person that provides payphone service to the public in the Commonwealth of Virginia by means of a coin or coinless payphone instrument.

"Serving local exchange carrier" or "serving LEC" means the incumbent or competitive local exchange carrier to whom the PSP subscribes for access line service.

"User" means the individual initiating a call from a payphone instrument.

"0+ call" means a call made by a user dialing the digit "0" followed by the telephone number.

"0- call" means a call made by a user dialing the digit "0" only.

20 VAC 5-407-20. General provisions; enforcement; waiver requests.

A. A PSP, OSP, or serving LEC shall provide records, documents, and special reports to the commission as requested in writing by the staff. Any such requests and responses may be submitted via electronic mail or facsimile.

B. A PSP shall provide written responses to data requests from the commission staff regarding payphone services and instruments within 21 calendar days, unless additional time is otherwise provided in the request or agreed upon by the parties.

C. The commission may enforce the provisions of this chapter by any means authorized under applicable law or regulation, and subject to the right of appeal set out in § 12.1-39 of the Code of Virginia and in Article IX Section 4 of the Virginia Constitution. Enforcement actions may include, without limitation, the refusal to issue a registration certificate for which application has been made and the revocation or

suspension of a registration certificate previously granted. This chapter shall not be deemed to preclude a person aggrieved by a violation of these regulations from pursuing any civil relief that may be available under state or federal law, including, without limitation, private actions for damages or other equitable relief.

D. A request for a waiver of any of the provisions in this chapter may be considered by the commission on a case-by-case basis and may be granted upon such terms and conditions as the commission may impose.

20 VAC 5-407-30. Registration, renewal, and cancellation procedures for OSPs.

A. OSPs, excluding those with commission-issued certificates of public convenience and necessity, shall register and pay a registration fee of \$25 each year to provide operator services from payphones starting January 16, 2002. Registration forms may be obtained by visiting the commission's website at:

<http://www.state.va.us/scc/division/puc/index.htm>, by calling the Division of Communications, or by making a request in writing to the State Corporation Commission, Division of Communications, P.O. Box 1197, Richmond, Virginia 23218.

B. Upon completion of the registration process, the commission shall issue a registration certificate to the OSP to provide operator services from payphones in accordance with the provisions of this chapter.

C. Each OSP shall renew its registration certificate by January 16 of each year. To renew, each OSP shall:

1. Submit to the commission's Public Service Taxation Division a completed renewal form.

2. Pay a nonrefundable renewal fee of \$25, payable to the Treasurer of Virginia and mailed to the State Corporation Commission, Public Service Taxation Division, P. O. Box 1197, Richmond, Virginia 23218.

3. In addition to the renewal fee, pay a late filing fee of \$10 for all renewals postmarked after January 16 of each year.

D. To cancel its registration certificate with the commission, an OSP shall return its renewal form marked "cancel" or send a letter requesting cancellation of its certificate by January 16 of the year it wishes to cancel its certificate.

E. After March 16 of each year, the commission may issue a Rule to Show Cause ordering any OSP that has not properly registered or canceled its registration certificate to show cause why it should not be penalized for violation of this chapter. In addition, after notice and hearing, if the OSP is found to be in violation of any of the provisions of this chapter, a fine of \$50, or as determined by the commission, may be imposed on the OSP, and its certificate to provide operator services from payphones in the Commonwealth of Virginia may be canceled.

20 VAC 5-407-40. Registration, renewal, and cancellation procedures for PSPs.

A. PSPs shall register and pay a registration fee of \$4.00 per payphone instrument before providing service to the public. Registration forms may be obtained by visiting the commission's website at: <http://www.state.va.us/scc/division/puc/index.htm>, by calling the Division of Communications, or by making a request in writing to the State Corporation Commission, Division of Communications, P. O. Box 1197, Richmond, Virginia 23218.

B. Upon completion of the registration process, the commission shall issue a registration certificate to the PSP to provide payphone service in accordance with the provisions of this chapter.

C. The commission staff shall send out renewal notices and forms to all registered PSPs by December 16 of each year. Each PSP shall renew its registration certificate by January 16 of each year. To renew, each PSP shall:

1. Submit to the commission's Public Service Taxation Division a completed renewal form and list of payphone instruments owned in Virginia, specifying a telephone number, physical address, the name of the serving LEC, and the OSP for each payphone instrument. The physical address of each payphone instrument shall be confidential unless and until the commission orders otherwise.

2. Pay a nonrefundable renewal fee of \$4.00 per payphone instrument, payable to the Treasurer of Virginia and mailed to the State Corporation Commission, Public Service Taxation Division, P. O. Box 1197, Richmond, Virginia 23218.

3. In addition to the renewal fee, pay a late filing fee of \$1.00 per payphone, or a minimum of \$50, whichever amount is greater, for all renewals postmarked after January 16 of each year.

D. To cancel its registration certificate with the commission, a PSP shall return its renewal form marked "cancel" or send a letter requesting cancellation of its certificate by January 16 of the year it wishes to cancel its certificate.

E. After March 16 of each year, the commission may issue a Rule to Show Cause ordering any PSP that has not properly registered or canceled its registration certificate to show cause why it should not be penalized for violation of this chapter. In addition, after notice and hearing, if the PSP is found to be in violation of any of the provisions of this chapter, a fine not to exceed \$50 per payphone, or as determined by the commission, for all payphones previously registered may be imposed on the PSP, and the serving LEC may be ordered to disconnect service to the PSP.

20 VAC 5-407-50. Payphone instrument and service requirements.

- A. A payphone instrument shall be equipped for "dial-tone first."
- B. Each coin payphone instrument must be connected to an individual access line. When multiple coinless phones are installed in the same physical area, one access line shall not be connected to more than three coinless phones, provided that such access promotes economical and convenient use by the public and retains immediate telephone access to emergency services.
- C. A payphone instrument shall receive incoming calls unless it is prominently marked with the words "OUTGOING CALLS ONLY," "NO INCOMING CALLS," or similar language.
- D. A payphone instrument shall provide users with free access to the Telecommunications Relay Service system by dialing 711, as prescribed by the commission's final order in Case No. PUC000045.
- E. A payphone instrument shall allow users access to the serving LEC operator without charge. Where the access code "0" is reserved for carriers other than the

serving LEC operator, access to the serving LEC operator shall be provided through the access code "*0."

F. A payphone instrument shall allow users to reach "800" numbers and other types of toll-free service without having to deposit a coin or make a prepayment.

G. A payphone instrument shall allow users to reach all OSP networks with access service arrangements with the serving LEC through their "950," "800," or "101-XXXX-0" number without having to deposit a coin or make a prepayment.

H. A coin-operated payphone instrument shall accept any combination of nickels, dimes, and quarters for local and long-distance calling charges and return any deposited amount to the user if the call is not completed.

I. PSPs shall have established procedures for making prompt refunds to users. Refunds must be made within 21 calendar days of a valid request to the PSP.

J. PSPs shall be responsible for acquiring and implementing programming information and necessary changes to central office codes and local and extended calling areas no later than 60 days after the effective date of the change.

K. A payphone instrument reported to a PSP as being out of service must be removed or restored to service as quickly as possible. Removing the payphone or restoring service shall not take more than seven calendar days from receipt of the trouble report, unless site construction interrupted the service.

1. The serving LEC shall restore 80% of all out-of-service conditions within 24 hours and 100% of all out-of-service conditions within 48 hours from receipt of the trouble report.

2. The 24- and 48-hour restoral standards exclude trouble reports received on Sundays, legal holidays, and during emergency operating conditions.

L. Prior to call completion and before any charges are incurred, each provider of intrastate operator services, whether local or toll, shall:

1. Identify itself audibly and distinctly, whether automated or live, to the user or billed party; and

2. If automated, provide instructions for the user to dial no more than two digits to obtain rate information and, if live, provide rate information upon request; and

3. If rate information is requested pursuant to subdivision 2 of this subsection, disclose within 90 seconds of such request a quote of its rates or charges for the call to the user or billed party; and

4. After providing rate information, permit the user or billed party to terminate the call at no charge before the call is connected.

M. A payphone instrument shall allow access to 911 emergency service, where available, at no charge to the user. If not available, the PSP must post dialing instructions for accessing emergency service or the emergency agency's number.

N. PSPs may charge fees for incoming calls in excess of one minute.

O. Where available from the serving LEC, the access line service rates for PSPs shall be offered:

1. At a rate not to exceed the serving LEC's private branch exchange trunk flat rate; or

2. At optional message business rate, measured business rate, or a special payphone rate, subject to commission approval.

P. Compliance with subsection O is not intended to preclude the serving LEC from complying with any Federal Communications Commission pricing guidelines or mandates.

20 VAC 5-407-60. Housing card.

A. A payphone housing card shall contain, at a minimum, the following information:

1. Clear operating instructions.
2. The physical address and phone number (area code + seven-digit number) of the payphone instrument. This must be the same physical address that is provided to the serving LEC and used by 911 emergency services.
3. The PSP's certificated name, address, and free contact telephone number (area code + seven-digit number) that can be reached during normal business hours. If the PSP's contact number is posted for refunds and repairs, then posting another contact number for the PSP is not needed.
4. Procedures for repairs, refunds, and billing disputes, including a specific contact number for these types of services that users can reach without charge. Such contact numbers shall reach a live or automated attendant.
5. Instructions on how to contact both local and long-distance directory assistance.

6. Prominent instructions specifying how to reach the serving LEC operator by dialing 0 or *0.
7. Clear and prominent instructions on how payphone users may reach emergency agencies. These instructions shall refer to 911 where that code is in use as a locality's emergency contact number. Where 911 is not used as the local emergency contact number, provide instructions for contacting the emergency agency. The operator must provide prompt, efficient, and accurate emergency service; and if such service is not provided, the commission may require a PSP to route 0 or *0 calls to the serving LEC.
8. Prominent instructions that read "OUTGOING CALLS ONLY," "NO INCOMING CALLS," or similar language, if the payphone instrument does not permit incoming calls.
9. A statement notifying payphone users that the long-distance carrier of their choice can be obtained by following the dialing instructions provided by that carrier.
10. The identity of the OSP, with address and toll-free number, making the charge for any intrastate long distance or local operator assisted call, whether automated or live, not handled by the serving LEC operator.
11. A posted charge for a local call, including a notice of any time limits.
12. A posted notice of any charges for incoming calls on the housing card.

B. Information pertinent only to jurisdictions other than the Commonwealth of Virginia shall not be posted on a payphone instrument in Virginia.

C. If the information on the housing card is determined to be inaccurate or violates any provisions of this chapter, the PSP shall replace its housing card with correct information either during its next scheduled collection of coins or at its next regularly scheduled maintenance visit. In no event shall the housing card contain inaccurate information or violate any provision of this chapter for more than 60 calendar days.

D. Maintenance and coin collection activity shall include the replacement of housing cards that have been vandalized.

20 VAC 5-407-70. Penalties.

Failure to comply with the provisions of this chapter may result, following proper notice and an opportunity for a hearing, in appropriate action by the commission, which may include, but is not limited to, disconnection of the payphone instruments, additional fines, registration certificate revocation, or any combination of these penalties which in the judgment of the commission is necessary to protect the public interest.

**APPLICATION FOR
REGISTRATION AS AN OPERATOR
SERVICE PROVIDER
STATE CORPORATION COMMISSION**

FOR OFFICIAL USE

(All entries on the form
must be typed or printed.)

OSP_____

Date of Application

Name of Operator Service Provider

Social Security or Employer Identification Number

Address of Operator Service Provider

Physical Address if different from above

Name and title of Contact person (owner, president, principal)

Day telephone number

Other telephone number

Is your business entity a corporation, limited partnership, or limited liability company formed under the laws of another state, another country, or Virginia: [☐] Yes [☐] No

If the answer to the previous question is **Yes**, have you obtained a Certificate of Authority or a Certificate of Registration to transact business in Virginia from the Clerk of the Commission? [☐] Yes [☐] No

FEE INSTRUCTIONS

The SCC collects a nonrefundable fee each year or fraction thereof (year) from each provider in order to register as an Operator Service Provider. The fee is **\$25.00 per year**. Each new provider must pay a registration fee at the time of initial registration and by January 16th of each succeeding year. A **late filing fee of \$10.00** will be collected for late payments received **after January 16th in successive years**. If you have questions relating to the completion of the form, please contact Jim Mullenau at (804) 371-9850.

Submit this registration form, together with a check payable to **“TREASURER OF VIRGINIA”** in the amount of **\$25.00** and mail to:

**STATE CORPORATION COMMISSION
PUBLIC SERVICE TAXATION DIVISION
P.O. BOX 1197
RICHMOND, VIRGINIA 23218**

The information provided on this form is true to the best of my knowledge and I agree to abide by the SCC Rules for Payphone Service and Instruments. (Forms not completed and signed by the principal of the business will be returned not processed.)

Signature

Date

Title (Owner, President, CEO, etc.)

FOR OFFICIAL USE

This operator service provider is authorized to do business in Virginia contingent upon conformity to the SCC Rules for Payphone Service and Instruments.

Signature

Date

**APPLICATION FOR
REGISTRATION AS A PAYPHONE
SERVICE PROVIDER
STATE CORPORATION COMMISSION**

FOR OFFICIAL USE

(All entries on the form
must be typed or printed.)

PSP _____

Date of Application

Name of Payphone Company

Social Security or Employer Identification Number

Address to which regulatory mail and telephone bills from the local exchange companies will be sent

Physical Address if different from above

Name and title of Contact person (owner, president, principal)

Day telephone number

Other telephone number

Is your business entity a corporation, limited partnership, or limited liability company formed under the laws of another state, another country, or Virginia: [] Yes [] No

If the answer to the previous question is **Yes**, have you obtained a Certificate of Authority or a Certificate of Registration to transact business in Virginia from the Clerk of the Commission? [] Yes [] No

FEE CALCULATION INSTRUCTIONS

The SCC collects a nonrefundable fee each year or fraction thereof (year) for each payphone operated in order to register as a Payphone Service Provider. The fee is **\$4.00 per payphone per year**. Each new provider must pay a registration fee at the time of initial registration and by January 16th of each succeeding year. A **late filing fee of \$1.00 per payphone registered or \$50.00, whichever is greater**, will be collected for late payments received **after January 16th in successive years**. If you have questions relating to the completion of the form, please contact Jim Mullenau at (804) 371-9850.

Fee computation: Number of payphones operated _____ X \$4.00 = the total due _____. Attach a check for the computed amount made payable to the **TREASURER OF VIRGINIA** and mail with this application to:

**STATE CORPORATION COMMISSION
PUBLIC SERVICE TAXATION DIVISION
P.O. BOX 1197
RICHMOND, VIRGINIA 23218**

The information provided on this form is true to the best of my knowledge and I agree to abide by the SCC Rules for Payphone Service and Instruments. (Forms not completed and signed by the principal of the business will be returned not processed.)

<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Signature	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Date
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Title (Owner, President, CEO, etc.)

FOR OFFICIAL USE

This payphone service provider is authorized to do business in Virginia contingent upon conformity to the SCC Rules for Payphone Service and Instruments.

<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Signature	<hr style="border: none; border-top: 1px solid black; margin-bottom: 5px;"/> Date
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